

Message Text

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ORIGIN COME-00

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LAB-06 NSAE-00 NSC-10 PA-03 RSC-01 AID-20 CIEP-02

SS-14 STR-08 TAR-02 TRSE-00 USIA-12 PRS-01 SAL-01

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TO AMEMBASSY BERN

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AMEMBASSY LISBON

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY OSLO

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY REYKJAVIK

AMEMBASSY STOCKHOLM

AMEMBASSY TOKYO

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AMEMBASSY VIENNA

INFO USMISSION GENEVA
USMISSION EC BRUSSELS
USMISSION OECD PARIS
AMCONSUL ANTWERP
AMCONSUL AMSTERDAM
USMISSION BERLIN
AMCONSUL BORDEAUX
AMCONSUL BREMEN
AMCONSUL DUSSELDORF
AMCONSUL FRANKFURT
AMCONSUL GENOA
AMCONSUL HAMBURG
AMCONSUL MARSEILLE
AMCONSUL MILAN
AMCONSUL MUNICH
AMCONSUL LYON
AMCONSUL NAPLES
AMCONSUL NICE
AMCONSUL PALERMO
AMCONSUL ROTTERDAM
AMCONSUL STRASBOURG
AMCONSUL STUTTGART
AMCONSUL TURIN
AMCONSUL ZURICH

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E. O. 11652: N/ A

TAGS: ETRD EEC EFTA

SUBJ: EC/ EFTA NON- APPLICANTS - RULES OF ORIGIN

REF: GENEVA A-164, MARCH 10, 1973

1. BEGIN LIMITED OFFICIAL USE: SUMMARY: INDUSTRIAL FREE
TRADE AGREEMENTS ARE IN EFFECT BETWEEN THE ENLARGED EC AND
AUSTRIA, SWITZERLAND, PORTUGAL AND SWEDEN; SIMILAR AGREE-
MENTS HAVE BEEN NEGOTIATED BY THE COMMUNITY WITH FINLAND
AND ICELAND, AND ONE WITH NORWAY IS BEING NEGOTIATED. THESE
AGREEMENTS HAVE THE EFFECT OF ESTABLISHING AN INDUSTRIAL
FREE TRADE AREA (FTA) AMONG THE SIGNATORY COUNTRIES. ALTHOUGH
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NEGOTIATED SEPARATELY, EACH AGREEMENT CONTAINS RULES OF ORIGIN
(R/ O) SPECIFYING CONDITIONS THAT GOODS TRADED WITHIN THE FTA
MUST MEET IN ORDER TO QUALIFY FOR STAGED REDUCTIONS IN DUTIES
TO ZERO BY JULY 1977. WE ARE VERY CONCERNED ABOUT NEW RULES
OF ORIGIN PROVISIONS IN EC/ EFTA NON- APPLICANT AGREEMENTS
BECAUSE THEY ARE LIKELY TO HAVE CONSIDERABLE ADVERSE EFFECT
ON U. S. EXPORTS OF COMPONENTS TO COUNTRIES PARTY TO AGREE-
MENTS, AND MAY THEREFORE REPRESENT SIGNIFICANT NEW NONTARIFF

BARRIER AT A TIME WHEN MAJOR EFFORTS TO REDUCE NTB'S ARE CONTEMPLATED. IN ORDER ENABLE US MORE FULLY EVALUATE TRADE IMPACT OF R/O, ADDRESSEE POSTS ARE REQUESTED TO REPORT BY APRIL 30 INFORMATION SPECIFIED IN PARAS 8-13 BELOW. FYI. THIS INFORMATION WILL BE AN IMPORTANT ELEMENT IN OUR PREPARATIONS FOR GATT WORKING PARTY REVIEW LATE IN MAY AND FOR PROSPECTIVE INDUSTRY HEARINGS ON EC/EFTA AGREEMENTS, INCLUDING R/O, TO BE HELD IN WASHINGTON IN MID- MAY. ANNOUNCEMENT REGARDING HEARINGS TO APPEAR MARCH 30 IN FEDERAL REGISTER. END SUMMARY. END LIMITED OFFICIAL USE.

2. BEGIN UNCLASSIFIED: BACKGROUND: PURPOSE OF RULES OF ORIGIN (R/O) IN FREE TRADE AREA IS TO PREVENT DIVERSION OF THIRD COUNTRY IMPORTS TO LOW-DUTY MEMBER COUNTRIES OF FTA FOR RE-EXPORT TO OTHER MEMBER COUNTRIES WITH HIGHER EXTERNAL DUTIES. COMPARED WITH ORIGINAL EFTA RULES OF ORIGIN, THESE NEW R/O, WHICH GO INTO EFFECT APRIL 1, ARE GENERALLY MORE STRINGENT AND MAY HAVE PROTECTIVE EFFECT BEYOND THEIR INTENDED PURPOSE OF PREVENTING DIVERSION.

3. THE NEW R/O GRANT ORIGIN STATUS TO (A) GOODS WHOLLY PRODUCED IN ANY ONE EFTA NON-APPLICANT COUNTRY OR IN THE COMMUNITY, AND (B) GOODS CONTAINING COMPONENTS FROM THIRD COUNTRIES WHICH HAVE UNDERGONE "SUFFICIENT TRANSFORMATION" IN THE FTA COUNTRY WHERE THE PROCESSING OCCURRED. THE BASIC CRITERION FOR SUFFICIENT TRANSFORMATION IS THAT THE RESULTING PRODUCT IS CLASSIFIED IN A DIFFERENT BTN TARIFF HEADING THAN ITS COMPONENTS. HOWEVER, THERE ARE MANY EXCEPTIONS TO THIS RULE. AMONG THE PROCESSES WHICH DO NOT CONFER ORIGIN EVEN IF CAUSING A CHANGE OF TARIFF HEADING ARE SORTING, PAINTING, PACKING, LABELLING, MIXING OF PRODUCTS, SIMPLE ASSEMBLY AND OPERATIONS TO PRESERVE GOODS. FURTHER, EXCEPTIONS FOR SPECIFIC PRODUCTS ARE SET OUT IN LISTS A AND B OF THE RULES OF ORIGIN. LIST A INDICATES, FOR PARTICULAR LIMITED OFFICIAL USE

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FOUR-DIGIT BTN HEADINGS, THOSE PRODUCTS, WHICH DESPITE A CHANGE OF TARIFF POSITION DUE TO PROCESSING, ARE EXCLUDED FROM ORIGIN STATUS UNLESS THEY MEET ADDITIONAL, SPECIFIED, MINIMUM PROCESSING REQUIREMENTS. THESE INCLUDE (A) MAXIMUM PERCENTAGE OF THE VALUE OF A GIVEN FINISHED PRODUCT WHICH MAY BE NON-ORIGINATING COMPONENTS AND/OR (B) SPECIFIC MANUFACTURING PROCESSES WHICH MUST TAKE PLACE ON THE PRODUCT IN ANY ONE OF THE SIGNATORIES. THESE PROCESS REQUIREMENTS COVER TEXTILE PRODUCTS, PATENT LEATHER, NATURAL CORK ARTICLES, CERTAIN PAPER AND PAPERBOARD, RAILWAY CONSTRUCTION MATERIALS, IRON AND STEEL PIPES, AND VACUUM FLASKS. THE SPECIFIC PROCESS REQUIREMENTS FAVOR COMMUNITY MEMBERS SINCE THE PROCESSING MUST TAKE PLACE IN ONE PARTY OF THE FTA WITH THE NINE MEMBERS OF THE COMMUNITY CONSTITUTING ONE PARTY AND EACH OF THE

SEPARATE NON- APPLICANTS ANOTHER PARTY.

4. THE GENERAL REQUIREMENT THAT PROCESSING OF NON- ORIGINATING COMPONENTS RESULT IN A TARIFF HEADING CHANGE IS RELAXED IN LIST B. BOILERS, MACHINERY AND MECHANICAL APPLIANCES OF CHAPTERS 84 TO 92 AND BOILERS OF HEADING 73.37 MAY INCORPORATE FIVE PERCENT BY VALUE OF NON- ORIGINATING PARTS WITHOUT LOSS OF ORIGIN STATUS EVEN THOUGH THE PARTS AND FINISHED PRODUCT ARE THE SAME TARIFF HEADING. LIST B ALSO DEFINES SPECIFIC PROCESSING OF NON- ORIGINATING COMPONENTS WHICH DO NOT RESULT IN TARIFF HEADING CHANGES BUT WHICH NEVERTHELESS SATISFY ORIGIN CONDITIONS. FOR EXAMPLE, NON- ORIGINATING COMPONENTS NOT EXCEEDING TWENTY PERCENT BY VALUE OF THE FINISHED PRODUCT OF THE CHEMICAL AND ALLIED INDUSTRIES MAY BE USED WITHOUT LOSS OF ORIGIN STATUS.

5. IN CONTRAST, CRITERIA OF THE ORIGINAL EFTA ORIGIN RULES IDENTIFIED GOODS OF EFTA ORIGIN AS: (A) WHOLLY PRODUCED; (B) QUALIFYING PROCESS; (C) PERCENTAGE (50 PERCENT OF TOTAL VALUE COULD COME FROM OUTSIDE EFTA AREA). THE EXPORTER COULD CHOOSE BETWEEN THE LATTER TWO CRITERIA. BASIC MATERIALS NOT AVAILABLE WITHIN EFTA OR IN INSUFFICIENT SUPPLY COULD BE CONSIDERED AS ORIGINATING IN EFTA REGARDLESS OF WHERE THEY CAME FROM. THE NEW R/O ARE GENERALLY MORE STRINGENT. THE REQUIREMENT FOR A CHANGE OF TARIFF HEADING IS BURDENSOME, SINCE MOST FOUR- DIGIT BTN HEADINGS, E. G., FOR MECHANICAL APPLIANCES AND ELECTRICAL MACHINERY, INCLUDE PARTS AS WELL AS THE FINISHED PRODUCTS. IN SOME CASES EVEN WHEN THE LIMITED OFFICIAL USE

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TARIFF HEADING CHANGE TEST IS MET, ADDITIONAL REQUIREMENTS MAY EXIST. ALSO, THE NEW R/O DO NOT GRANT ORIGIN STATUS TO BASIC RAW MATERIALS NOT GENERALLY FOUND IN THE EC/ EFTA.

6. TRADE IMPACT OF NEW R/O MAY VARY DEPENDING ON ELASTICITIES OF SUBSTITUTION FOR INDIVIDUAL ITEMS, BUT COULD BE PROHIBITIVE FOR RANGE OF U. S. COMPONENTS PRESENTLY USED BY EUROPEAN PROCESSORS AND MANUFACTURERS. EXTENT TO WHICH NEW R/O WILL INDUCE SHIFTS TO FTA SUPPLY SOURCES AWAY FROM THIRD COUNTRIES WILL DEPEND PARTLY ON AVAILABILITY OF LOCAL SUBSTITUTES IN SUFFICIENT AMOUNT AND QUALITY, AND ABILITY AND WILLINGNESS OF USER TO ABSORB ADDED- COST PENALTY FOR USING NON- ORIGIN COMPONENTS, AND SIZE OF MARKET WHICH MIGHT BE AFFECTED.

(A) FOLLOWING HYPOTHETICAL CASE ILLUSTRATES PROHIBITIVE EFFECT NEW R/O COULD HAVE ON CONTINUED USE OF NON- ORIGIN PRODUCTS: SWEDISH FIRM IMPORTS AT FIVE PERCENT DUTY U. S. COMPONENTS CLASSIFIED UNDER BTN 84.10 FOR MANUFACTURE OF LIQUID PUMPS TO BE EXPORTED TO EC UNDER SAME TARIFF CLASSIFICATION AT DUTY RATES UP TO NINE PERCENT. EC/ SWEDEN AGREEMENT HAS

DOUBLE EFFECT: PARTS FOR THESE PUMPS FROM EC CAN NOW ENTER AT LOWER DUTY RATES (FALLING TO ZERO IN 1977) WHEREAS THOSE FROM THE U. S. CONTINUE TO BEAR THE FIVE PERCENT SWEDISH IMPORT DUTY. BUT, IN ADDITION, THE NEW R/ O SPECIFY THAT IF COMPONENTS AND THEIR FINISHED PRODUCTS HAVE SAME TARIFF HEADING ONLY FIVE PERCENT BY VALUE OF NON- FTA ORIGIN PARTS MAY BE USED IF THE FINISHED SWEDISH PUMP IS TO ENJOY THE LOWERED EC TARIFF RATES. THUS, IF THE U. S. COMPONENT REPRESENTS DOLS 6 (SIX) OF A DOLS 100 FINISHED PUMP (EXCLUDING CERTAIN OVERHEAD COSTS DEFINED BY THE AGREEMENT) AND IF THE EC ASSESSES A NINE PERCENT DUTY ON THE SWEDISH IMPORT BECAUSE IT CONTAINS MORE THAN THE FIVE PERCENT MAXIMUM ALLOWABLE NON- ORIGIN CONTENT, THE SWEDISH PRODUCER WOULD FACE A NINE- DOLLAR EC DUTY FOR THE PRIVILEGE OF USING SIX DOLLAR U. S. COMPONENT.

(B) NEGATIVE IMPACT WOULD BE SMALL IN FOLLOWING CASE: EC PRODUCER USES SIGNIFICANT PROPORTION OF U. S. COMPONENTS WHICH ARE ESSENTIALLY NON- SUBSTITUTABLE BECAUSE OF SUPERIOR TECHNOLOGY AND SELLS PRINCIPALLY IN EC AND OTHER NON- EFTA MARKETS. HE MAY DECIDE TO CONTINUE USING U. S. COMPONENTS RATHER THAN SWITCHING TO POSSIBLY LESS COMPETITIVE OR RELIABLE EC OR EFTA COMPONENTS TO MEET R/ O REQUIREMENTS.
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7. THREE ACTUAL PROBLEMS WITH R/ O HAVE ALREADY BEEN REPORTED: (A) DANISH EC USER OF U. S. CORDUROY FABRICS (ABOUT DOLS 1.5 MILLION A YEAR) FOR MANUFACTURE OF SLACKS FOR EXPORT TO FINLAND, NORWAY AND SWEDEN (E. G . EFTA) HAS DECIDED TO SUBSTITUTE FRENCH CORDUROY FABRICS BECAUSE THE R/ O REQUIRE THAT THE FABRICS MUST BE WOVEN IN ONE OF THE EFTA SIGNATORIES FOR THE SLACKS TO QUALIFY FOR ORIGIN STATUS; (B) AN EC SUBSIDIARY OF A U. S. FIRM IS DISCOURAGED BY R/ O FROM IMPORTING TEXTILE FLAKE (PROCESSED TEXTILE PULP) FROM ITS U. S. PARENT FOR PROCESSING INTO FIBER BECAUSE R/ O REQUIRE THAT TO OBTAIN LOWER TARIFFS, BOTH THE PROCESSING INTO FLAKE AND PROCESSING INTO FIBER MUST TAKE PLACE IN THE EC/ EFTA AREA EVEN THOUGH A TARIFF CHANGE IS INVOLVED; (C) SWEDISH MANUFACTURER OF RADIO TRANSMISSION MEDICAL EQUIPMENT UNDER BTN 85.15 CURRENTLY IMPORTING DOLS 400,000 WORTH OF U. S. TRANSISTORS, CAPACITORS, AND CONDENSERS AND EXPORTING THE FINISHED PRODUCTS LARGELY TO THE EC IS NOT ABLE TO MEET THE R/ O' S THREE PERCENT LIMIT ON THE USE OF THIRD- COUNTRY TRANSISTORS IN SUCH GOODS. END BACKGROUND.

8. ACTION REQUESTED: ALL ADDRESSEE POSTS EXCEPT CANBERRA, OTTAWA, TOKYO. BY APRIL 30, YOU ARE REQUESTED TO SOLICIT AND REPORT VIEWS OF LOCAL IMPORTERS, DISTRIBUTORS AND USERS OF HOW NEW R/ O MAY AFFECT IMPORTS OF COMPONENTS FROM U. S., DRAWING ON INFORMATION AND QUESTIONS IN THIS MESSAGE. OUR PRELIMINARY ASSESSMENT SUGGESTS THAT POSTS SHOULD FOCUS THEIR

INQUIRIES ON: MOTOR VEHICLES, PAPER PRODUCTS, ELECTRICAL MEASURING INSTRUMENTS, TELECOMMUNICATIONS EQUIPMENT, CALCULATING MACHINES, PUMPS, TEXTILES, AND CHEMICALS. POSTS SHOULD ALSO QUERY OTHER IMPORTANT USERS OF COMPONENTS AS APPROPRIATE.

9. FOLLOWING AREAS FOR QUESTIONING REFLECT OUR CURRENT UNDERSTANDING OF POSSIBLE ADVERSE EFFECTS OF THE NEW R/O. NEGATIVE STATEMENTS WILL SUFFICE IF IMPORTER, DISTRIBUTOR, OR MANUFACTURER DOES NOT EXPECT TO BE AFFECTED BY THE R/O. WHEN RESPONDENT BELIEVES THE R/O'S WILL HAVE A SIGNIFICANT IMPACT ON HIS COMPONENT SOURCING, PLEASE BE SPECIFIC AS PRACTICABLE ABOUT THE DOLLAR VALUES, PROPORTIONS OF COMPONENTS TO FINISHED PRODUCT, THE ORIGINS OF THE COMPONENTS AFFECTED, AND THE PERCENTAGE OF VALUE ADDED TO THE PRODUCT
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BY THE FIRM'S ASSEMBLY OPERATIONS IN THE FTA.

10. SUGGESTED QUESTIONS TO EXPLORE WITH RESPONDENTS ARE:

(A) TO WHAT EXTENT WILL THE R/O INFLUENCE HOST COUNTRY PRODUCER TO SWITCH TO FTA (EC AND EFTA) COMPONENT SOURCES FROM U.S. AND OTHER THIRD COUNTRY SOURCES OUTSIDE THE FTA?

(B) WHEN SUCH A SHIFT IS FORESEEN, DOES THE LOCAL COMPONENT USER EXPECT THAT HIS NEW FTA COMPONENT SOURCES WILL BE AS PRICE COMPETITIVE AND TECHNOLOGICALLY ADVANTAGEOUS AS THOSE USED PREVIOUSLY?

(C) IF A RESPONDENT LOCATED IN THE EC HAS TRADITIONALLY EXPORTED LITTLE TO THE EFTA PORTION OF THE FTA, DOES HE THINK THAT ANY DISADVANTAGES WHICH MAY FOLLOW FROM HIS SWITCHING FROM ESTABLISHED COMPONENT SOURCES OUTSIDE THE FTA TO NEW AND UNTRIED ONES WITHIN IT IN ORDER TO MEET THE FTA RULES OF ORIGIN WILL BE OFFSET BY THE POTENTIAL OF NEW SALES IN THE EFTA MARKET?

(D) IF A PRODUCER IN THE FTA HAS OR BELIEVES HE WILL SHIFT TO FTA SOURCES FOR HIS COMPONENTS TO MEET THE FTA ORIGIN RULES AND ENHANCE HIS COMPETITIVE POSITION ON THE FTA MARKET, DOES HE PLAN ALSO TO SHIFT FROM NON-FTA TO FTA SOURCES FOR COMPONENTS USED IN HIS PRODUCTS DESTINED FOR MARKETS OUTSIDE THE FTA?

(E) WOULD A U.S. SUBSIDIARY IN THE FTA CURRENTLY USING COMPONENTS IMPORTED FROM THE U.S. PARENT AND/OR OTHER NON-FTA SOURCES SWITCH SUCH COMPONENT SOURCING TO POINTS WITHIN THE FTA OR PLAN TO MANUFACTURE THE COMPONENTS ITSELF?

11. POSTS SHOULD ALSO REPORT (A) WHETHER RESPONDENT CONCERNED ABOUT IMPACT OF R/ O' S ON HIS BUSINESS AND OPERATIONS IN GENERAL, (B) WHETHER THE ORIGIN RULES MAY REDUCE FIRM' S COMPETITIVENESS IN MARKETS OUTSIDE THE FTA, (C) OPPOSITION TO THE INCREASED PAPERWORK THE R/ O' S REQUIRE, (D) STEPS HOST EC AND EFTA GOVERNMENTS ARE TAKING TO PREPARE THEIR BUSINESS COMMUNITIES FOR THESE RULES, (E) PUBLIC AVAILABILITY OF LOCAL AND ENGLISH LANGUAGE VERSIONS OF THE PERTINENT AGREEMENTS AND REGULATIONS, AND (F) FAMILIARITY OF BUSINESSMEN WITH THE LIMITED OFFICIAL USE

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RULES' REQUIREMENTS. ALSO, ARE COPIES OF MOVEMENT CERTIFICATES AVAILABLE? THESE ARE: A. CH.1 FOR EC- SWITZERLAND TRADE, A. IS.1 FOR EC- ICELAND, A. OS.1 FOR EC- AUSTRIA, A. P.1 FOR EC- PORTUGAL, AND A. S.1 FOR EC- SWEDEN.

12. TO SUCCESSFULLY CONDUCT THE REQUESTED INQUIRIES, EACH EFTA POST WILL NEED THE FULL VERSION OF THE AGREEMENT BETWEEN ITS HOST COUNTRY AND THE EC. EC COUNTRY POSTS SHOULD USE THE SWITZERLAND- EC AGREEMENT AS THE EXAMPLE TO WORK FROM BECAUSE IT CONTAINS THE MOST GENERALLY APPLICABLE RANGE OF EC/ EFTA SIGNATORY PROVISIONS. COPIES OF THE RESPECTIVE AGREEMENTS SHOULD BE READILY OBTAINABLE THROUGH HOST GOVERNMENT SOURCES IN ENGLISH AND LOCAL LANGUAGE. IF AGREEMENTS NOT AVAILABLE CABLE SOONEST FOR INSTRUCTIONS. EXPLANATION OF RULES, INCLUDING LISTS A AND B, AVAILABLE IN DECEMBER 21, 1972 ISSUE OF TRADE AND INDUSTRY (OFFICIAL U. K. D. T. I. MAGAZINE). END UNCLASSIFIED

13. BEGIN LIMITED OFFICIAL USE. ACTION REQUESTED CANBERRA, OTTAWA, TOKYO: HAVE HOST GOVERNMENTS EXAMINED RULES OF ORIGIN? HAVE THEY ESTIMATED RULES' EFFECTS ON THEIR EXPORTS? ARE DIFFERENT EFFECTS FORESEEN FOR COMPONENTS EXPORTS AND FOR EXPORTS OF FINISHED GOODS? ARE HOST COUNTRY EXPORTERS INFORMED ABOUT THE FTA ORIGIN RULES AND, IF SO, WHAT IS THEIR LEVEL OF CONCERN? END LIMITED OFFICIAL USE.

DECONTROL FOLLOWING MARCH 28, 1975. ROGERS

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BONN
BRUSSELS
CANBERRA
DUBLIN
COPENHAGEN
THE HAGUE

HELSINKI
LISBON
LONDON
LUXEMBOURG
OSLO
OTTAWA
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